

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,
Plaintiff,
vs.
QK HOTEL, LLC, et al.,
Defendants,
and
FRANKLIN K. MUKAI, et al.,
Third-Party Plaintiffs,
vs.
SPORTS SHINKO (USA) CO., LTD.,
et al.,
Third-Party Defendants,
and
SPORTS SHINKO (HAWAII) CO.,
LTD., et al.,
Third-Party Defendants/
Counterclaimants,
vs.
QK HOTEL, LLC, et al.,
Third-Party Counterclaim
Defendants.
AND CONSOLIDATED CASES

CV 04-00124 ACK-BMK
CV 04-00125 ACK-BMK
CV 04-00126 ACK-BMK
CV 04-00127 ACK-BMK
CV 04-00128 ACK-BMK

CONSOLIDATED CASES

DECLARATION OF
ROBERT A. MARKS

DECLARATION OF ROBERT A. MARKS

Pursuant to 28 U.S.C. § 1746, ROBERT A. MARKS states as follows:

1. I am an attorney licensed to practice law before this court.

2. I am counsel for the following defendants, counterclaimants and third party plaintiffs in the captioned consolidated actions: Kiahuna Golf Club, LLC, KG Kauai Development, LLC, Pukalani Golf Club, LLC, KG Maui Development, LLC, Mililani Golf Club, LLC, QK Hotel, LLC, OR Hotel, LLC, and KG Holdings, LLC.

3. I have reviewed the attached memorandum of law. All facts set forth therein are true to the best of my knowledge, recollection and belief.

4. Attached and marked exhibits 1A – 1E are a true and correct copies of excerpts from: the third amended complaints in CV No. 04-00124 ACK-BMK and CV No. 04-00125 ACK-BMK, the second amended complaint in CV No. 04-00126 ACK-BMK, and the third amended complaints in CV No. 04-00127 ACK-BMK and 04-00128 ACK-BMK, respectively.

5. Attached and marked exhibits 2A and 2B are true and correct copies of the Loan Purchase Agreement and Supplement to Loan Purchase Agreement, respectively, produced by the SS parties in discovery. Because this exhibit was marked “confidential” by SS, pursuant to the agreement of the parties, SS’s counsel will make arrangements for these exhibits to be filed under seal. I will arrange for a copy of Exhibit 2A and 2B to be delivered to the Court’s chambers.

6. Attached and marked exhibit 3 is a true and correct copy of excerpts of SS's response to the KG Parties' discovery requests that were served on SS on January 3, 2005. SS's response was served on or about May 13, 2005.

7. Attached and marked exhibit 4 is a true and correct copy of excerpts of SS's response to a request for production of documents from KG Holdings, LLC to Sports Shinko Co., Ltd. The discovery request was made on August 31, 2005. SS's response was served on or about November 1, 2005.

8. Attached and marked exhibits 5A – 5E are true and correct copies of excerpts from the SS companies' March 30, 2007 responses to interrogatories served by Defendant Franklin Mukai on October 19, 2006 in CV Nos. 04-00124 ACK-BMK, 04-00125 ACK-BMK, 04-00126 ACK-BMK, 04-00127 ACK-BMK and 04-00128 ACK-BMK, respectively.

9. Attached and marked exhibit 6 is a true and correct copy of excerpts of my letter dated October 14, 2005 to Paul Alston and Glenn Melchinger and the enclosure thereto.

10. Attached and marked exhibit 7 is a true and correct copy of excerpts of my letter to the Honorable Barry M. Kurren dated November 16, 2005, which enclosed my letter of November 15, 2005 to Paul Alston and Glenn Melchinger and the enclosure thereto.

11. Attached and marked exhibit 8 is a true and correct copy of excerpts of my letter to Glenn Melchinger dated January 22, 2007. This letter was also filed with the Court as an exhibit to a motion on January 31, 2007 in these consolidated cases.

12. Attached and marked exhibit 9 is a true and correct copy of an e-mail exchange between Bruce Wakuzawa and me that took place between March 28, 2007 – March 29, 2007.

13. Attached and marked exhibit 10 is a true and correct copy of an e-mail exchange between Glenn Melchinger and me that took place between February 1, 2006 – February 8, 2006.

14. Attached and marked exhibit 11 is a true and correct copy of a letter from Glenn Melchinger to me dated February 20, 2007, together with an excerpt from the enclosure to that letter.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, April 5, 2007.

/s/ Robert A. Marks
ROBERT A. MARKS